

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-219681.2 **DATE:** October 23, 1985
MATTER OF: Lion Brothers Company, Inc.--
Reconsideration

DIGEST:

GAO will not reopen a protest file closed because more than 7 working days after the contracting agency report was received (on the scheduled due date) the protester had not commented on the report or stated an interest in having the protest decided on the existing record. GAO's acknowledgment of the protest gave notice that the protest file would be closed in that event and reopening the file would be inconsistent with expeditious consideration of the protest.

Lion Brothers Company, Inc. (Lion Brothers), requests that we reopen the file on its protest under request for proposals (RFP) USSS-85-7.

We will not reopen the file.

We closed the file because the report on the protest was received from the contracting agency on the scheduled due date, September 19, 1985, and more than 7 working days later we had not received any communication from Lion Brothers regarding the protest.

The August 14, 1985, acknowledgment of the protest sent to Lion Brothers by our Office gave notice to Lion Brothers of the date we expected to receive the contracting agency report, that we would assume that it receives the report when we receive ours and that under section 21.3(e) of our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985), it had an obligation within 7 working days after the report is received to submit written comments or state that it wants the protest decided on the existing record. Lion Brothers failed to comply with this obligation. The notice stated that, if we did not hear from Lion Brothers by the seventh working day, we would close the file.

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Lion Brothers states that it did not receive a copy of the report until October 3, 1985, and used this date as the date from which the 7 days was to start to run. However, in our acknowledgment notice, which Lion Brothers claimed not to have received until September 19, 1985, although the date stamp on the notice indicates that it was received on August 19, 1985, we stated that the protester was to notify GAO promptly if it had not received the report by the due date. If there was no such notification requirement, the protester could idly await the report for an indefinite period of time to the detriment of the protest system generally, as well as our ability to resolve protests expeditiously as required by the Competition in Contracting Act. See Del-Jen, Inc.--Reconsideration, B-218136.3, June 10, 1985, 85-1 C.P.D. ¶ 659. Therefore, when Lion Brothers did not receive the report on the due date, they should have notified our Office promptly.

Accordingly, our dismissal of the protest, for the reason that after receipt of the report more than 7 days lapsed and no communication was received from Lion Brothers concerning the protest, is affirmed. See Del-Jen, Inc.--Reconsideration, B-218136.3, supra.

for *Seymour Efron*
Harry R. Van Cleve
General Counsel